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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,924

04/08/2004

Edmund W. Brown

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EXAMINER

HERRERA, JENNIFER

ART UNIT

PAPER NUMBER

3652

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/820,924	Applicant(s) BROWN, EDMUND W.	
	Examiner Jennifer P. Herrera	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 2, 5, 13 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6-12 and 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendments filed on October 23, 2006 to the claims, specification, and drawings have been entered into record.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "retracted position" of the handle assembly must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper Industrial website in Jan. 2003 in view of Thompson et al. (U.S. 5,328,192) and further in view of Blake et al. (U.S. 4,360,211). Topper teaches a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003. Topper does not teach a slidable handle assembly. Thompson teaches the slidable handle assembly, 28, connected to the support frame. Thompson also teaches a locking structure, 32 and 40, for the slidable handle assembly. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Thompson's slidable handle assembly to Topper's device to allow the user movement based on the center of gravity of the article being transported.

Topper does not teach a load support member and load support arm. Blake teaches the load support member, 18 and load support arm 32. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Blake's load support member and arm to the tugger cart of Topper in view of Thompson to stabilize the placement and support of cargo during shipment.

3. Claims 3, 4, 6, 7, 11, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view Blake as applied to claims 1 and 10 above, and further in view of Foss et al. (U.S. 4,637,626).

a. Regarding claims 3, 4, 11, and 12, Topper, Thompson, and Blake do not teach a lower and upper arm. Foss teaches a lower arm, 275, and upper arm, 280, pivotally connected. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Foss' arms to the tugger cart of Topper in view of Thompson and Blake to broaden the capability of the handle. The ability of retracting the arm would minimize spaced required for the cart in any scenario, for example storing the cart while not in use.

b. Regarding claims 6, 7, 14, and 15, Topper, Thompson, and Foss do not teach a bracing element and retaining plate. Blake teaches the bracing element 19 and retaining plate 31, as seen in Figure 2. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Blake's bracing element to the tugger cart of Topper in view of Thompson and Foss to stabilize the placement and support of the cargo during shipment.

4. Claims 8, 9, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Blake as applied to claims 1 and 10 above, and further in view of Bodine et al (U.S. 5,462,298).

a. Regarding claims 8 and 17, Topper, Thompson, and Blake do not teach a bed locking structure. Bodine teaches bed locking structure, 62, positioned on the support frame. Therefore it would have been obvious to a person of ordinary skill

in the art at the time of the invention to add Bodine's locking structure to the device of Topper in view of Thompson and Blake to insure the user a secure and stable platform during transportation.

b. Regarding claims 9 and 18, Topper, Thompson, and Blake do not teach a retractable pin and locking plate. Bodine teaches a pin, 64, and plate, 65, in column 5. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's pin and plate to the device of Topper in view of Thompson and Blake to insure an easy lock system regardless of the force applied to the rotating bed.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Blake in view of Bodine as applied to claim 18 above, and further in view of Hollowell et al (U.S. 2,712,452). Topper, Thompson, Blake, and Bodine do not teach a horizontal base and pair of ramp plates. Hollowell teaches the plate 8 with ramp plates, as seen in Figure 14. Therefore it would have been obvious to a person having ordinary skill in the art to add Hollowell's locking plate design to the cart of Topper in view of Thompson, Blake, and Bodine to allow a secure rigid attachment to the base. Less moving parts insure a cleaner and safer operation for the user.

6. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson, and further in view of Bodine and Hollowell. Topper teaches a tugger cart comprising of a support frame, a bed centrally rotated, and a wheel assembly posted time-stamp of 2/6/2003. Topper does not teach a slidable handle assembly. Thompson teaches the slidable handle assembly, 28, connected to

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the support frame. Thompson also teaches a locking structure, 32 and 40, for the slidable handle assembly. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Thompson's slidable handle assembly to Topper's device to allow the user movement based on the center of gravity of the article being transported.

Topper and Thompson do not teach a retractable pin and locking plate. Bodine teaches a pin, 64, and plate, 65, in column 5. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's pin and plate to the device of Topper in view of Thompson to insure an easy lock system regardless of the force applied to the rotating bed.

Topper, Thompson, and Bodine do not teach a horizontal base and pair of ramp plates. Hollowell teaches the plate 8 with ramp plates, as seen in Figure 14. Therefore it would have been obvious to a person having ordinary skill in the art to add Hollowell's locking plate design to the cart of Topper in view of Thompson and Bodine to allow a secure rigid attachment to the base. Less moving parts insure a cleaner and safer operation for the user.

7. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Bodine in view of Hollowell as applied to claim 21 above, and further in view of Foss.

a. Regarding claim 22, Topper, Thompson, Bodine, and Hollowell do not teach a lower and upper arm. Foss teaches a lower arm, 275, and upper arm, 280, pivotally connected. Therefore it would have been obvious to a person of

ordinary skill in the art at the time of the invention to add Foss' arms to the tugger cart of Topper in view of Thompson, Bodine, and Hollowell to broaden the capability of the handle and to minimize space required for the cart when storing the cart while not in use.

b. Regarding claim 23, Topper, Thompson, Hollowell, and Foss do not teach a bed locking structure. Bodine teaches bed locking structure, 62, positioned on the support frame. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Bodine's locking structure to the device of Topper in view of Thompson, Hollowell, and Foss to insure the user a secure and stable platform during transportation.

8. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Topper in view of Thompson in view of Bodine in view of Hollowell in view of Foss as applied to claim 22 above, and further in view of Blake. Topper, Thompson, Bodine, Hollowell, and Foss do not teach load support member, bracing element, load supporting arm, and retaining plate. Blake teaches load support member 18, bracing element 19, load support arm 32, and retaining plate 31. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to add Blake's load support member and arm, retaining plate, and embracing element to the tugger cart of Topper in view of Thompson, Bodine, Hollowell, and Foss to stabilize the placement and support of cargo during shipment.

Response to Arguments

Applicant's arguments with respect to claims 1, 10, and 20 have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendments necessitate new grounds of rejections.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

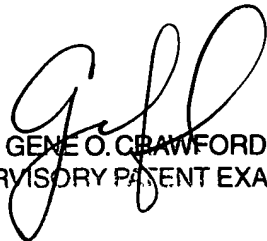
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer P. Herrera whose telephone number is (571) 272-6269. The examiner can normally be reached on 0830-1700 hrs Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JPH
1/11/07



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